

REMARKS/ARGUMENTS

The Examiner is thanked for performing a thorough search. Claims 1-27 are pending in the application. Claims 1, 2, 5, 6, 10, 11, 14, 15, 19, 20, 23, and 24 are amended. No claims are canceled or added. The amendments to the claims as indicated herein do not add any new matter to this application.

OBJECTIONS TO THE SPECIFICATION

The Office Action objected to the specification because the specification allegedly did not provide proper antecedent basis for associating one or more statistical data structures with a key value.

However, paragraph [0037] of the specification says: "In one embodiment, kernel 150 maintains a separate **statistical data structure**, referred to herein as a '**k-stat**,' for each system resource that is defined within OSE 100." Paragraph [0043] says: "In one embodiment, **each k-stat is associated with a name, an instance, and a module.**" Additionally, paragraph [0052] says:

In block 314, **one or more key values** are received from the process. For example, kernel 150 may receive, from a process executing in non-global zone 140a, **key values that indicate a name, an instance, and a module.** In block 316, from a plurality of k-stats, only those **k-stats that are associated with the one or more process-specified key values** are selected to be in a set of k-stats. For example, if the name, instance, and module is "foo, 0, foo," then kernel 150 selects, from all k-stats, a set of k-stats that are associated with "foo, 0, foo"; such k-stats may be associated with various different zones.

Clearly, based on the above information, a "k-stat" is a "statistical data structure" that is associated with a "name, instance, and module" which are examples of "one or more key values."

Since the specification discloses that a statistical data structure (e.g., a “k-stat”) is associated with a “name, instance, and module,” which are examples of “key values,” the specification clearly provides antecedent basis for associating one or more statistical data structures (e.g., “k-stats”) with a key value (e.g., a “name,” “instance,” and/or “module”).

Withdrawal of the objection to the specification is requested.

CLAIM REJECTIONS—35 U.S.C. § 112, SECOND PARAGRAPH

Claim 1 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. This objection is respectfully traversed.

Claim 1 has been amended to recite “one or more statistical data structures that are each **identified by** the one or more key values.” Because Claim 1 no longer recites that the statistical data structures are “associated with” the one or more key values, there cannot be any confusion between (a) the previously recited “association” between the statistical data structures and the key values and (b) the currently recited “association” between the “particular data structure” and the “VOSE in which the first process executes.”

To clarify, statistical data structures (e.g., “k-stats”) are **identified by** key values (such as a name, an instance, and a module, for example), and statistical data structures (e.g., “k-stats”) are also **associated with** VOSEs (e.g., “zones”). Paragraph [0038] of the specification says:

For each such k-stat, the module may establish **an association between that k-stat and the global OSE (i.e., global zone 130) and/or one or more VOSEs (i.e., non-global zones 140) within the global OSE. Different k-stats may be associated with different zones.**

The Office Action also expressed concern that it was unclear “which data” from the set of statistical data structures is sent to the first process in Claim 1. However, Claim 1 recites that this data is, specifically, the data that is “stored in the **particular** statistical data structure that is associated with the first VOSE,” where “the first VOSE” is “the VOSE in which the first process executes.” Thus, the data sent to the first process is data that is stored in a statistical data structure that is **associated with the VOSE in which the first process executes**, rather than data that is stored in other statistical data structures that also might be identified by the same key values (e.g., name, instance, and/or module) received from the first process.

In order to clarify “which data” is sent to the first process in Claim 1, Claim 1 has been amended to recite, additionally, that “the statistical data that is sent to the first process comprises statistics that indicate information about prior usage of a specific system resource with which the particular statistical data structure is associated.” Examples of such statistics, and support for the above amendment, are found in paragraphs [0037] and [0045] of the specification, for example (e.g., “how much information has been written to the particular NFS mount,” “the percentage of time that the particular CPU has been idle,” etc.). Thus, there cannot be any confusion about “which data” is sent to the first process.

Withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, is requested.

CLAIM REJECTIONS—35 U.S.C. § 102

Claims 1-27 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,813,766 (“Hay”). This rejection is respectfully traversed.

As amended, Claim 1 recites, among other features, “wherein the statistical data that is sent to the first process comprises statistics that indicate information about prior usage of a specific system resource with which the particular statistical data structure is associated.” Hay discloses a virtual environment (prison) structure 212. This structure “generally contains information that **defines** an associated virtual environment ID 214.” Such information includes a scheduling priority 215, which is “a parameter that is used in **calculating scheduling priorities** for processes operating within the virtual environment.”

Although scheduling priority 215 can be used to calculate scheduling priorities for processes operating within the virtual environment, scheduling priority 215 does not indicate “information about prior usage of a specific system resource.” Scheduling priority 215 does not indicate prior usage of any specific virtual environment or any specific system resource. Therefore, scheduling priority 215 is not analogous to the “statistical data that is sent to the first process” as recited in Claim 1. Indeed, there does not seem to be any indication in Hay that the information that can be obtained from scheduling priority 215 is in any way “statistical” in nature. Additionally, there does not appear to be any other information in virtual environment structure 212 that is analogous to the “statistical data” recited in Claim 1.

Furthermore, Claim 1 recites that the “one or more key values” are **received from** the same “first process” to which the “statistical data” is sent, if the statistical data is sent. The Office Action apparently analogizes Hay’s “virtual server ID 206” to the “one or more key values” of Claim 1. However, Hay does not disclose, teach, or suggest that virtual server ID 206 is received from any process to which “statistical data” (allegedly, scheduling priority 215) is then sent. Indeed, Hay doesn’t even disclose that scheduling priority 215 (the alleged “statistical

data”) or any other data contained in virtual environment structure 212 is ever **sent to** any process from which any alleged “key value” was received.

For at least the above reasons, Claim 1 is patentable over Hay under 35 U.S.C. § 102(e).

Although the Office Action alleges that Hay discloses specific features of Claim 1, the Office Action **does not even allege** that Hay discloses any specific feature or limitation of Claim 9.

Claim 9 recites, among other features, “sending, to the process, **a list of statistical data structures** that are in the set of one or more statistical data structures” where “the set of one or more data structures” are “associated with a VOSE in which the process executes.” Thus, the list of statistical data structures that is sent to the process is a list of those statistical data structures that are associated with the VOSE (e.g., zone) in which that same process executes.

Hay doesn’t disclose such a feature. There is no disclosure, teaching, or suggestion in Hay that any list of statistical data structures is ever sent to any process. Even if Hay’s “virtual environment structure 212” is considered to be a “statistical data structure,” Hay does not disclose, teach, or suggest that a list of such virtual environment structures is ever sent to any process.

For at least the above reasons, Claim 9 is patentable over Hay under 35 U.S.C. § 102(e).

The other independent claims not specifically discussed above are either machine-readable medium or apparatus analogues of either Claim 1 or Claim 9. Therefore, these other independent claims are patentable over Hay under 35 U.S.C. § 102(e) for at least the reasons discussed above in relation to Claims 1 and 9.

By virtue of their dependence upon the independent claims upon which they depend, the dependent claims inherit the features of the independent claims upon which they depend. These inherited features include at least one of the features that have been distinguished from Hay above. As a result, all of the dependent claims also are patentable over Hay under 35 U.S.C. § 102(e).

CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

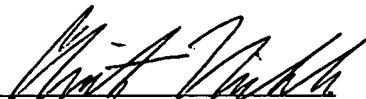
The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: October 10, 2006


Christian A. Nicholes
Reg. No. 50,266

2055 Gateway Place, Suite 550
San Jose, California 95110-1089
Telephone: (408) 414-1080
Facsimile: (408) 414-1076

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

on 10/10/06 by Annette Valdivia
Annette Valdivia